

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” and Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

These amendments specify the qualifications required for personnel working in area education agencies, local education agencies, and infant and toddler programs to bill Medicaid for services. The Centers for Medicare and Medicaid Services has ruled that audiologists and speech-language pathologists must have a license from the Iowa Board of Speech Pathology and Audiology in order to bill for audiological or speech-language services. Personnel with endorsements from the Board of Educational Examiners only will not qualify as Medicaid providers under this policy.

These amendments do not provide for waivers in specified situations. The Department does not have authority to waive federal regulations.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6748B**. The Department received no comments on the Notice of Intended Action.

The Department has modified the amendments published under Notice of Intended Action in subrule 77.28(6), paragraph 77.43(1)“f,” and paragraph 77.44(1)“f” to add “Licensed by the Iowa board of optometry as an optometrist pursuant to 645—Chapter 180” to the permitted qualifications for personnel providing vision services. Senate File 2251, enacted by the 82nd General Assembly and effective July 1, 2009, requires area education agencies to make every effort to provide vision screening services to children who are two through four years of age, in collaboration with local community organizations.

The Council on Human Services adopted these amendments on June 11, 2008.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on September 1, 2008.

The following amendments are adopted.

ITEM 1. Amend rule 441—77.28(249A) as follows:

**441—77.28(249A) Area education agencies.** An area education agency is eligible to participate in the Medicaid program when it has a plan for providing comprehensive special education programs and services approved by the Iowa department of education. Covered services shall be provided by personnel who are licensed, endorsed, or registered as provided in this rule and shall be within the scope of the applicable license, endorsement, or registration.

**77.28(1)** Personnel providing audiological or speech-language services shall be licensed by the Iowa board of speech pathology and audiology as a speech pathologist or audiologist pursuant to 645—Chapters 299, 300 and 303 through 305.

**77.28(2)** Personnel providing physical therapy shall be licensed by the Iowa board of physical and occupational therapy as a physical therapist pursuant to 645—Chapters 199 through 204.

**77.28(3)** Personnel providing occupational therapy shall be licensed by the Iowa board of physical and occupational therapy as an occupational therapist pursuant to 645—Chapters 205 through 210.

**77.28(4)** Personnel providing psychological evaluations and counseling or psychotherapy services shall be:

*a.* Endorsed by the Iowa board of educational examiners as a school psychologist pursuant to rule 282—15.11(272);

*b.* Licensed by the Iowa board of psychology as a psychologist pursuant to 645—Chapters 239 through 243;

*c.* Licensed by the Iowa board of social work as a social worker pursuant to 645—Chapters 279 through 284;

d. Licensed by the Iowa board of medicine as a physician pursuant to 653—Chapters 9 through 11; or

e. Registered by the Iowa nursing board as an advanced registered nurse practitioner pursuant to 655—Chapter 7.

77.28(5) Personnel providing nursing services shall be licensed by the Iowa nursing board as a registered or licensed practical nurse pursuant to 655—Chapters 3 through 6.

77.28(6) Personnel providing vision services shall be:

a. Licensed by the Iowa nursing board as a registered or licensed practical nurse pursuant to 655—Chapters 3 through 6;

b. Licensed by the Iowa board of medicine as a physician pursuant to 653—Chapters 9 through 11; or

c. Licensed by the Iowa board of optometry as an optometrist pursuant to 645—Chapter 180.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 2. Rescind subrule 77.43(1) and adopt the following **new** subrule in lieu thereof:

**77.43(1) Licensure.** Covered services shall be provided by personnel who are licensed, endorsed, registered, recognized, or qualified as provided in this subrule and shall be within the scope of the applicable license, endorsement, registration, recognition, or qualification.

a. Personnel providing audiological or speech-language services shall be licensed by the Iowa board of speech pathology and audiology as a speech pathologist or audiologist pursuant to 645—Chapters 299, 300 and 303 through 305.

b. Personnel providing physical therapy shall be licensed by the Iowa board of physical and occupational therapy as a physical therapist pursuant to 645—Chapters 199 through 204.

c. Personnel providing occupational therapy shall be licensed by the Iowa board of physical and occupational therapy as an occupational therapist pursuant to 645—Chapters 205 through 210.

d. Personnel providing psychological evaluations and counseling or psychotherapy services shall be:

(1) Endorsed by the Iowa board of educational examiners as a school psychologist pursuant to rule 282—15.11(272);

(2) Licensed by the Iowa board of psychology as a psychologist pursuant to 645—Chapters 239 through 243;

(3) Licensed by the Iowa board of social work as a social worker pursuant to 645—Chapters 279 through 284;

(4) Licensed by the Iowa board of medicine as a physician pursuant to 653—Chapters 9 through 11; or

(5) Registered by the Iowa nursing board as an advanced registered nurse practitioner pursuant to 655—Chapter 7.

e. Personnel providing nursing services shall be licensed by the Iowa nursing board as a registered or licensed practical nurse pursuant to 655—Chapters 3 through 6.

f. Personnel providing vision services shall be:

(1) Licensed by the Iowa nursing board as a registered or licensed practical nurse pursuant to 655—Chapters 3 through 6;

(2) Licensed by the Iowa board of medicine as a physician pursuant to 653—Chapters 9 through 11; or

(3) Licensed by the Iowa board of optometry as an optometrist pursuant to 645—Chapter 180.

g. Developmental services shall be provided by personnel who meet standards established pursuant to department of education rule 281—120.19(34CFR303).

h. Medical transportation shall be provided by licensed drivers.

i. Other services shall be provided by staff who are:

(1) Recognized as a special education paraprofessional pursuant to department of education rule 281—41.403(256B);

- (2) Endorsed by the Iowa board of educational examiners as a school psychologist pursuant to rule 282—15.11(272);
- (3) Endorsed by the Iowa board of educational examiners as a speech-language pathologist pursuant to rule 282—15.12(272);
- (4) Endorsed by the Iowa board of educational examiners as an orientation and mobility specialist pursuant to rule 282—15.15(272);
- (5) Endorsed by the Iowa board of educational examiners as a school occupational therapist pursuant to rule 282—15.16(272);
- (6) Endorsed by the Iowa board of educational examiners as a school physical therapist pursuant to rule 282—15.17(272);
- (7) Endorsed by the Iowa board of educational examiners as a special education nurse pursuant to rule 282—15.18(272);
- (8) Endorsed by the Iowa board of educational examiners as a school social worker pursuant to rule 282—15.19(272);
- (9) Licensed by the Iowa nursing board as a registered or licensed practical nurse pursuant to 655—Chapters 3 through 6; or
- (10) Licensed by the Iowa board of medicine as a physician pursuant to 653—Chapters 9 through 11.

ITEM 3. Rescind subrule 77.44(1) and adopt the following **new** subrule in lieu thereof:

**77.44(1) Licensure.** Covered services shall be provided by personnel who are licensed, endorsed, registered, recognized, or qualified as provided in this subrule and shall be within the scope of the applicable license, endorsement, registration, recognition, or qualification.

*a.* Personnel providing audiological or speech-language services shall be licensed by the Iowa board of speech pathology and audiology as a speech pathologist or audiologist pursuant to 645—Chapters 299, 300 and 303 through 305.

*b.* Personnel providing physical therapy shall be licensed by the Iowa board of physical and occupational therapy as a physical therapist pursuant to 645—Chapters 199 through 204.

*c.* Personnel providing occupational therapy shall be licensed by the Iowa board of physical and occupational therapy as an occupational therapist pursuant to 645—Chapters 205 through 210.

*d.* Personnel providing psychological evaluations and counseling or psychotherapy services shall be:

- (1) Endorsed by the Iowa board of educational examiners as a school psychologist pursuant to rule 282—15.11(272);

- (2) Licensed by the Iowa board of psychology as a psychologist pursuant to 645—Chapters 239 through 243;

- (3) Licensed by the Iowa board of social work as a social worker pursuant to 645—Chapters 279 through 284;

- (4) Licensed by the Iowa board of medicine as a physician pursuant to 653—Chapters 9 through 11; or

- (5) Registered by the Iowa nursing board as an advanced registered nurse practitioner pursuant to 655—Chapter 7.

*e.* Personnel providing nursing services shall be licensed by the Iowa nursing board as a registered or licensed practical nurse pursuant to 655—Chapters 3 through 6.

*f.* Personnel providing vision services shall be:

- (1) Licensed by the Iowa nursing board as a registered or licensed practical nurse pursuant to 655—Chapters 3 through 6;

- (2) Licensed by the Iowa board of medicine as a physician pursuant to 653—Chapters 9 through 11; or

- (3) Licensed by the Iowa board of optometry as an optometrist pursuant to 645—Chapter 180.

*g.* Developmental services shall be provided by personnel who meet standards established pursuant to department of education rule 281—120.19(34CFR303).

- h.* Medical transportation shall be provided by licensed drivers.
- i.* Other services shall be provided by staff who are:
  - (1) Recognized as a special education paraprofessional pursuant to department of education rule 281—41.403(256B);
  - (2) Endorsed by the Iowa board of educational examiners as a school psychologist pursuant to rule 282—15.11(272);
  - (3) Endorsed by the Iowa board of educational examiners as a speech-language pathologist pursuant to rule 282—15.12(272);
  - (4) Endorsed by the Iowa board of educational examiners as an orientation and mobility specialist pursuant to rule 282—15.15(272);
  - (5) Endorsed by the Iowa board of educational examiners as a school occupational therapist pursuant to rule 282—15.16(272);
  - (6) Endorsed by the Iowa board of educational examiners as a school physical therapist pursuant to rule 282—15.17(272);
  - (7) Endorsed by the Iowa board of educational examiners as a special education nurse pursuant to rule 282—15.18(272);
  - (8) Endorsed by the Iowa board of educational examiners as a school social worker pursuant to rule 282—15.19(272);
  - (9) Licensed by the Iowa nursing board as a registered or licensed practical nurse pursuant to 655—Chapters 3 through 6; or
  - (10) Licensed by the Iowa board of medicine as a physician pursuant to 653—Chapters 9 through 11.

ITEM 4. Amend rule **441—78.32(249A)**, as follows:

**441—78.32(249A) Area education agencies.** Payment will be made for physical therapy, occupational therapy, psychological evaluations and counseling, psychotherapy, speech-language therapy, and audiological, nursing, and vision services provided by an area education agency (AEA). ~~These services shall be provided by personnel who meet standards as set forth in department of education rules 281—41.8(256B,34CFR300) to 281—41.10(256B) to the extent that their certification or license allows them to provide these services.~~ Services shall be provided directly by the AEA or through contractual arrangement with the AEA.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/2/08.